

**State of Rhode Island and Providence Plantations**  
**OFFICE OF THE HEALTH INSURANCE COMMISSIONER**  
**233 Richmond Street**  
**Providence, RI 02903**

**NOTICE OF PROPOSED REGULATION**  
**AND NOTICE OF PUBLIC HEARING**

Notice is hereby given, in accordance with R.I. Gen. Laws §§ 42-14-17 and 42-35-3, that the Office of the Health Insurance Commissioner ("OHIC") proposes to enact the following Regulation:

**Regulation 11 — Small Employer Health Insurance  
Availability Regulation**

The Proposed Regulation 11 adopts the existing Department of Business Regulation Insurance Regulation 82, the Small Employer Health Insurance Availability Regulation, with certain amendments. The amendments include regulatory updates, provisions related to the statutory HEALTHpact plan, deadlines for the development of common forms, and a requirement for an annual rate filing by small employer carriers.

Notice is also hereby given, in accordance with R.I. Gen. Laws § 42-35-2, that the OHIC will hold a public hearing beginning at 10:00 A.M. on Wednesday, August 29, 2007 in the Main Hearing Room of the Department of Business Regulation, 233 Richmond Street, Providence, Rhode Island 02903, regarding the Proposed Regulation.

Copies of the Proposed Regulation are on file at the OHIC and copies may be obtained from the Executive Assistant for Program and Policy Review, OHIC, 233 Richmond Street, Providence, Rhode Island 02903 during normal working hours on regular business days or by mail upon request. The Proposed Regulation may also be accessed at [www.dbr.state.ri.us/divisions/healthinsurance](http://www.dbr.state.ri.us/divisions/healthinsurance).

In the development of the Proposed Regulations, consideration was given to overlapping approaches, overlap and duplication with other statutory and regulatory provisions and economic impact on small business and cities and towns.

All interested persons may submit their views, data or arguments regarding the Proposed Regulation, including information relating to alternative approaches, duplication or overlap with other state rules or regulations and the economic impact of the Regulations on small business and/or cities and towns, orally at the public hearing or in writing, either by delivering the same in person or United States mail with postage pre-paid thereon to the OHIC, 233 Richmond Street, Providence, Rhode Island 02903 attention John Aloysius Cogan Jr., Hearing Officer or by e-mail to [jcogan@dbr.state.ri.us](mailto:jcogan@dbr.state.ri.us).

ALL SUBMISSIONS MUST BE RECEIVED NOT LATER THAN  
WEDNESDAY, AUGUST 29, 2007 AT 10:00 A.M.

The hearing room is accessible to the handicapped. Individuals requesting interpreter services for the hearing impaired must notify the Executive Assistant for Program and Policy Review at (401) 222-7866 or TDD 711 not less than ninety-six (96) hours in advance of the hearing date.

Christopher F. Koller  
Health Insurance Commissioner

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**OFFICE OF THE HEALTH INSURANCE COMMISSIONER REGULATION 11**  
**SMALL EMPLOYER HEALTH INSURANCE AVAILABILITY REGULATION**

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***Section 1      Statement of Authority and Purpose***

This regulation is promulgated pursuant to the authority granted to the health insurance commissioner under R.I. Gen. Laws §§ 27-19-6, 27-20-6, 27-50-1 *et seq.*, 42-14-5, 42-14-17, 42-14.5-1 *et seq.* and 42-62-13.

This regulation is intended to implement the provisions of Title 27, Chapter 50, the “Small Employer Health Insurance Availability Act” (the “Act”). The purpose of the Act and this regulation is to provide for the availability of health insurance coverage to small employers and their employees and employees’ dependents, regardless of health status or claims experience; to regulate insurer rating practices and establish limits on differences in rates between health benefit plans; to provide for uniform annual filing requirements by carriers participating in the small group health insurance market; to ensure renewability of coverage; to establish limitations on underwriting practices, eligibility requirements and the use of preexisting condition exclusions; to direct the basis of market competition away from risk selection and toward the efficient management of health care; to provide for the availability of a wellness health benefit plan; to clarify the rules regarding the availability of individual health insurance policies to self

employed-individuals and to improve the overall fairness and efficiency of the small group health insurance market.

The Act and this regulation are intended to promote broader spreading of risk in the small employer marketplace and to regulate all health benefit plans sold to small employers, whether sold directly or through associations or other groupings of small employers. Carriers that provide health benefit plans to small employers are intended to be subject to all of the provisions of the Act and this regulation.

## ***Section 2      Definitions***

All words or phrases used in this regulation already defined in R.I. Gen. Laws § 27-50-3 shall have the meaning therein. In addition, as used in this regulation:

- (a) “COBRA continuation coverage” means insurance continuation benefits provided under Title X of Pub. L. No. 99-272, as amended.
- (b) “Case characteristic” means the characteristics of a small employer that are considered by the small employer carrier in the determination of premium rates for the small employer.
- (c) “Commissioner” shall mean the health insurance commissioner.
- (d) “Covered employee” means an eligible employee who is or was provided coverage under a group health plan.
- (e) “Individual health insurance policy” means health insurance coverage offered to an individual in his or her capacity as an individual and not in connection with a group health benefit plan or as a small employer.
- (f) “New entrant” includes an eligible employee, or the dependent of an eligible employee, who becomes eligible to participate in a health benefit plan sponsored by a small employer in accordance with the special enrollment provisions under R.I. Gen. Laws § 27-50-7(d)(7) or (8).
- (g) “OHIC” or “Office” means the Office of the Health Insurance Commissioner.
- (h) “Qualified beneficiary” means, with respect to a covered employee under a group health plan, an individual who, on the day before the qualifying event for that employee, is a beneficiary under the plan:
  - (1) as the spouse of the covered employee;
  - (2) as the dependent child of the covered employee, or
  - (3) a child who is born to or placed for adoption with the covered employee during the period of COBRA continuation coverage.
- (i) “Qualifying event” means, with respect to a covered employee, any of the following events that, but for COBRA continuation coverage, would result in the loss of coverage of a qualified beneficiary:
  - (1) the death of the covered employee;
  - (2) the termination, except for the employee’s gross misconduct, or reduction of hours, of the covered employee’s employment;

- (3) the divorce or legal separation of the covered employee from the employee's spouse;
  - (4) the covered employee becoming entitled to benefits under Title XVIII of the Social Security Act; or
  - (5) a dependent child ceasing to be a dependent child under the requirements of the health benefit plan.
- (j) "Risk characteristic" means the health status, claims experience, duration of coverage, or any similar characteristic related to the health status or experience of a small employer group or of any member of a small employer group.

***Section 3      Applicability and Scope***

(a) Applicability.

- (1) Except as provided in paragraphs (a)(2) or (a)(3) of this section and Section 11 of this regulation, this regulation shall apply to any health benefit plan, whether provided on a group or individual basis, that:
  - (A) meets one or more of the conditions set forth in R.I. Gen. Laws § 27-50-4(a); and
  - (B) provides coverage to one or more employees of a small employer located in this state, without regard to whether the policy or certificate was issued in this state.
- (2) Individual health insurance; self-employed persons; plans and deductions under the Internal Revenue Code.
  - (A) The provisions of the Act and this regulation shall not apply to an individual health insurance policy purchased by a self-employed person for himself or herself alone or for that person and his or her spouse and/or family under conditions that do not meet those set forth in R.I. Gen. Laws § 27-50-4(a).
  - (B) In the case of a self-employed person, the conditions set forth in R.I. Gen. Laws § 27-50-4(a)(4) have been met if:
    - (i) the health insurance is marketed to the self-employed person in his or her capacity as a self-employed person; or
    - (ii) the health insurance is marketed to the self-employed person through that person's membership (or potential membership) in an association or trade group for small employers or self-employed persons.
  - (C) A policy that otherwise meets the requirements of an individual health insurance policy and does not fall under the provisions of the Act and this regulations shall not be considered to meet the requirement of R.I. Gen. Laws § 27-50-4(a)(3) and therefore be subject to the Act and this regulation solely because:
    - (i) the policyholder treats the health insurance policy as part of a plan or program under Section 125 of the Internal Revenue Code; provided however, that no portion of the premium is paid by the small employer through such a plan or program; or

- (ii) the policyholder elects a deduction under section 162(l) of the Internal Revenue Code.
- (3) The provisions of the Act and this regulation shall apply to dental, vision or long term care benefits only as provided for in 45 C.F.R. 146.145.
- (b) Relationship to individual health insurance.
  - (1) Except as provided in paragraph (a)(2) of this section, a carrier that provides individual health insurance policies to one or more of the employees of a small employer shall be considered a small employer carrier and shall be subject to the provisions of the Act and this regulation with respect to such policies if the small employer contributes directly or indirectly to the premiums for the policies and the carrier is aware or should have been aware of such contribution.
  - (2) In the case of a carrier that provides individual health insurance policies to one or more employees of a small employer, the small employer shall be considered to be an eligible small employer as defined in R.I. Gen. Laws § 27-50-3(kk) and the small employer carrier shall be subject to R.I. Gen. Laws § 27-50-7(b) (relating to guaranteed issue of coverage) if:
    - (A) the employer qualifies as a small employer under the definitions contained in R.I. Gen. Laws §§ 27-50-3 and 27-50-7;
    - (B) the small employer contributes directly or indirectly to the premiums charged by the carrier; and
    - (C) the carrier is aware or should have been aware of the contribution by the employer.
- (c) Association or discretionary groups. The provisions of the Act and this regulation shall apply to a health benefit plan provided to a small employer or to the employees of a small employer without regard to whether the health benefit plan is offered under or provided through a group policy or trust arrangement of any size sponsored by an association or discretionary group.
- (d) Number of eligible employees.
  - (1) If a small employer is issued a health benefit plan under the terms of the Act, the provisions of the Act and this regulation shall continue to apply to the health benefit plan even in the event that the small employer subsequently employs more than fifty eligible employees. A carrier providing coverage to such an employer shall, within sixty days of becoming aware that the employer has more than fifty eligible employees, but no later than the anniversary date of the employer's health benefit plan, notify the employer that the provisions and protections provided under the Act and this regulation shall cease to apply to the employer if such employer fails to renew its current health benefit plan or elects to enroll in a different health benefit plan.
  - (2) If a health benefit plan is issued to an employer that is not a small employer as defined in the Act, but subsequently the employer becomes a small employer (for any reason including the loss or change of work status of one or more employees), the

terms of the Act shall not apply to the health benefit plan. The carrier providing a health benefit plan to such an employer shall not become a small employer carrier under the terms of the Act solely because the carrier continues to provide coverage under the health benefit plan to the employer. A carrier providing coverage to such an employer shall, within sixty days of becoming aware that the employer has fifty or fewer eligible employees, notify the employer of the options and protections available to the employer under the Act, including the employer's option to purchase a small employer health benefit plan from any small employer carrier.

- (e) Employees outside of Rhode Island.
  - (1) If a small employer has employees in more than one state, the provisions of the Act and this regulation shall apply to a health benefit plan issued to that small employer if:
    - (A) the majority of eligible employees of such small employer are employed in this state; or
    - (B) the primary business location of the small employer is in this state and no state has a majority of the eligible employees of the small employer.
  - (2) In determining whether the laws of this state or another state apply to a health benefit plan issued to a small employer described in paragraph (e)(1) of this section, the provisions of paragraph (e)(1) shall be applied as of the date the health benefit plan was issued to the small employer for the period that the health benefit plan remains in effect.
  - (3) If a health benefit plan is subject to the Act and this regulation, the provisions of the Act and this regulation shall apply to all individuals covered under the health benefit plan, whether they reside in this state or in another state.
- (f) Small employer carriers not operating in Rhode Island. A carrier that is not operating as a small employer carrier in this state shall not become subject to the provisions of the Act and this regulation solely because a small employer that was issued a health benefit plan in another state by that carrier moves to this state.

**Section 4      Transition or Assumption of Business from Another Carrier**

- (a) Approval required for transfer or assumption insurance risk. A small employer carrier shall not transfer or assume the entire insurance obligation and/or risk of a health benefit plan covering a small employer in this state unless:
  - (1) the transaction has been approved by the insurance commissioner of the state of domicile of the assuming carrier or the OHIC if the assuming carrier is domiciled in Rhode Island;
  - (2) the transaction has been approved by the insurance commissioner of the state of domicile of the ceding carrier or the OHIC if the ceding carrier is domiciled in Rhode Island; and
  - (3) the transaction otherwise meets the requirements of the Act and this regulation.
- (b) Approval of the transaction—carriers domiciled in Rhode Island. A carrier domiciled in this state that proposes to assume or cede the entire insurance obligation or risk of one or

more small employer health benefit plans from another carrier shall make a filing for approval with the health insurance commissioner at least sixty days prior to the date of the proposed assumption. The commissioner may approve the transaction if the commissioner finds that the transaction is in the best interests of the individuals insured under the health benefit plans to be transferred and is consistent with the purposes of the Act and this regulation. The commissioner shall not approve the transaction until at least thirty days after the date of the filing, unless the ceding carrier is in hazardous financial condition. If the ceding carrier is in hazardous financial condition, the commissioner may approve the transaction as soon as the commissioner deems appropriate after the filing.

- (c) Requirements for the filing. The filing required under paragraph (b) of this section shall:
  - (1) describe whether the health benefit plans being assumed are currently available for purchase by small employers;
  - (2) describe the potential effect of the assumption, if any, on the benefits provided by the health benefit plans to be assumed;
  - (3) describe the potential effect of the assumption, if any, on the premiums for the health benefit plans to be assumed;
  - (4) describe any other potential material effects of the assumption on the coverage provided to the small employers covered by the health benefit plans to be assumed; and
  - (5) include any other information required by the health insurance commissioner.
- (d) Informational filing required in other states. A small employer carrier required to make a filing under paragraph (b) of this section shall also make an informational filing with the insurance commissioner of each state in which there are small employer health benefit plans that would be included in the transaction. The informational filing to each state shall be made concurrently with the filing made under paragraph (b) of this section and shall include at least the information specified in paragraph (c) of this section for the small employer health benefit plans in that state.
- (e) Notice of the transaction—carriers not domiciled in Rhode Island. A small employer carrier not domiciled in Rhode Island shall not transfer or assume the entire insurance obligation and/or risk of a health benefit plan covering a small employer in this state unless it has provided a notice to the health insurance commissioner at least sixty days prior to the date of the proposed assumption that contains the information specified in paragraph (c) of this section for the health benefit plans covering small employers in this state.
- (f) Transfer. A small employer carrier making a transfer pursuant to this section may alter the benefits of the assumed health benefit plans to conform to the benefits currently offered by the carrier into which the health benefit plans have been transferred.
- (g) New rate for transfers. The premium rate for an assumed small employer health benefit plan shall not be modified by the assuming small employer carrier until the health benefit plan is transferred pursuant to this section. Upon transfer, the assuming small employer carrier shall calculate a new premium rate for the health benefit plan from the rate manual required under Section 5 of this regulation.



- (h) Eligibility requirements may not be more stringent. An assuming carrier may not apply eligibility requirements, including minimum participation and contribution requirements, with respect to an assumed health benefit plan or with respect to any health benefit plan subsequently offered to a small employer covered by such an assumed health benefit plan that are more stringent than the requirements applicable to such health benefit plan prior to the assumption.
- (i) Legal obligations, authorizations and protections. Nothing in this section or in the Act is intended to:
  - (1) reduce or diminish any legal or contractual obligation or requirement, including any obligation provided in R.I. Gen. Laws §§ 27-53.1-1 *et seq.* of the ceding or assuming carrier related to the transaction;
  - (2) authorize a carrier that is not admitted to transact the business of insurance in this state to offer or insure health benefit plans in this state; or
  - (3) reduce or diminish the protections related to an assumption reinsurance transaction provided in R.I. Gen. Laws §§ 27-53.1-1 *et seq.* or otherwise provided by law.

***Section 5      Rate Manual and Restrictions Relating to Premium Rates***

- (a) Rate manual. A small employer carrier shall develop a rate manual based on an adjusted community rate that may vary the adjusted community rate only for the following case characteristics:
  - (1) age;
  - (2) gender;
  - (3) family composition; and
  - (4) health status, provided that as of June 1, 2000 the carrier varied rates by health status and provided further such carrier (i) varies the adjusted community rate by health status only as provided in R.I. Gen. Laws § 27-50-5(a), (ii) such variation does not result in rates more than ten percent higher or lower than the rates without consideration of health status, and (iii) the adjustments are to be applied uniformly to all small employers covered by the carrier.
- (b) Health status adjustment.
  - (1) The health status adjustment described in paragraph (a)(4) of this section is limited to an amount that is at maximum equal to plus or minus ten percent from the age/gender adjusted community rate, subject to all other limitations imposed by the Act and this regulation. Use of the health status adjustment may not result in rates that are more than ten percent lower or higher than they would have been without the use of health status (i.e., health status may not vary rates by more than plus or minus ten percent from the average rate previously determined).
  - (2) In order to apply health status adjustments on a basis consistent with the requirements of the Act and this regulation, a carrier must determine the dollar amount of deviations for health status from average rates, and take steps to ensure that the total of downward deviations due to health status is approximately equal to the total of

upward deviations due to health status. This may be done on either a monthly or an annual basis.

- (3) No later than January 1, 2009, all carriers shall use standardized health status data collection tools described in paragraph (a) of Section 13 of this regulation for the purposes of obtaining information to apply the health status factor adjustment.
- (c) Family composition. Each small employer carrier shall include all categories of family composition set forth in the Act in each health benefit plan offered to every small employer. Those categories are (1) the enrollee; (2) the enrollee, spouse and children; (3) the enrollee and spouse; or (4) the enrollee and children.
- (d) Requirement to maintain rating information. In accordance with R.I. Gen. Laws § 27-50-5(h), a small employer carrier shall maintain rating information and documentation relating to rating practices and renewal underwriting practices and make it available to the health insurance commissioner. Such information shall be provided to the commissioner within tens day of a written request. The small employer carrier is not required to file such information with the commissioner for approval prior to use.
- (e) Rates computed solely from the rate manual. Except as provided in R.I. Gen. Laws § 27-50-5(a)(6), base premium rates and new business premium rates charged to small employers by the small employer carrier shall be computed solely from the rate manual developed pursuant to this subsection. To the extent that a portion of the premium rates charged by a small employer carrier is based on the carrier's discretion, the manual shall specify the criteria and factors considered by the carrier in exercising such discretion.
- (f) Relationship among the base premium rates. The rate manual, developed pursuant to this section, shall clearly illustrate the relationship among the base premium rates charged for each health benefit plan.
- (g) Differences among base premium rates. Differences among base premium rates for health benefit plans shall be based solely on the reasonable and objective differences in the design and benefits of the health benefit plans, except as otherwise specifically permitted under the Act, and shall not be based in any manner on the actual or expected health status or claims experience of the small employer groups that choose or are expected to choose a particular health benefit plan.
- (h) No application fees; in general. Except as provided in paragraph (i) of this section, a premium charged to a small employer for a health benefit plan shall not include a separate application fee, underwriting fee, or any other separate fee or charge.
- (i) Applications fees charged; exception to the prohibition. A carrier may charge a separate fee with respect to a health benefit plan (but only one fee with respect to such plan) provided the fee is no more than five dollars per month per employee and is applied in a uniform manner to each health benefit plan.
- (j) Allocation of expenses—statutory plans. A small employer carrier shall allocate administrative expenses to any health benefit plans required to be offered by R.I. Gen. Laws § 27-50-1 *et seq.* on a no less favorable basis than expenses are allocated to other health benefit plans.

- (k) Allocation of administrative expenses—the rate manual. The rate manual developed pursuant to this section shall describe the method of allocating administrative expenses to the health benefit plans for which the manual was developed.
- (l) Retention of rate manuals. The rate manual developed pursuant to this section shall be maintained by the carrier for a period of six years. Updates and changes to the manual shall be maintained with the manual.
- (m) Compliance with guidance. The rate manual and rating practices of a small employer carrier shall comply with all guidelines issued by the health insurance commissioner, including those issued pursuant to bulletins and orders adopting market conduct examination reports.
- (n) Employer does not meet “small employer” definition. If an employer does not meet the definition of a “small employer” under R.I. Gen. Laws § 27-50-3(kk), the small employer carrier shall rate the employer as a large employer, and the provisions of R.I. Gen. Laws § 27-50-5 and this section shall not apply.

***Section 6      Requirement to Insure Entire Group***

- (a) Coverage for each eligible employee and dependent. A small employer carrier that offers coverage to a small employer shall offer to provide coverage to each eligible employee and to each dependent of an eligible employee. Except as provided in paragraph (b) of this regulation, the small employer carrier shall provide the same health benefit plan to each such employee and dependent.
- (b) Offering one or more health benefit plans. A small employer carrier may offer the employees of a small employer the option of choosing one or more health benefit plans, provided that each employee may choose any of the offered plans. Except as provided in R.I. Gen. Laws § 27-50-7(d) (with respect to exclusions for preexisting conditions), the choice among benefit plans may not be limited, restricted or conditioned based upon the risk characteristics or a health status-related factor of the employees or their dependents.
- (c) List of eligible employees and dependents.
  - (1) A small employer carrier shall require each small employer that initially applies for coverage, as part of the application process, to provide a complete list of eligible employees and dependents of eligible employees as defined in R.I. Gen. Laws § 27-50-3(m). The small employer carrier shall require the small employer to provide appropriate supporting documentation (such as the W-2 Summary Wage and Tax Form) to verify the information required hereunder. Thereafter, eligibility documentation shall only be required for new employees and/or dependents who apply for coverage. Complete recertification of all eligible employees and dependents, or recertification of a particular employee and/or dependent may be required by the carrier at any time.
  - (2) No later than January 1, 2009, all carriers shall use standardized certification tools described in paragraph (b) of Section 13 of this regulation for the purposes of complying with paragraph (c)(1) of this section.
- (d) Waivers.

- (1) A small employer carrier shall obtain a waiver from each eligible employee and each dependent of such an eligible employee who declines an offer of coverage under a health benefit plan provided to a small employer.
- (2) The waiver shall be signed by the eligible employee (on behalf of such employee or the dependent of such employee) and shall certify that the individual who declined coverage was informed of the availability of coverage under the health benefit plan.
- (3) The waiver form shall:
  - (A) require that the reason for declining coverage be stated on the form;
  - (B) include a written warning of the penalties imposed on late enrollees; and
  - (C) include a statement informing the eligible employee of their special enrollment rights, if any, under R.I. Gen. Laws § 27-50-7(d)(7) or (8).
- (4) In the event that an eligible employee or dependent refuses to sign the waiver required hereunder, the small employer must certify such refusal in writing.
- (5) Waivers and certifications of refusal to sign waivers shall be maintained by the small employer carrier for a period of six years.
- (e) Refusal to provide the list of eligible employees and dependants. A small employer carrier shall not issue coverage (either new coverage or renewal coverage) to a small employer that refuses to provide the list of eligible employees and dependants pursuant to paragraph (c) of this section or a waiver required under paragraph (d) of this section. If a small employer fails to supply adequate supporting documentation, the carrier is required to presume that the employer is not eligible for issuance or renewal of coverage as a small employer. Individuals whose small employer benefits are declined or non-renewed shall be offered conversion, continuation or individual coverage as required under other applicable laws and regulations.

***Section 7      Application to Reenter State***

- (a) Petition to be reinstated. A carrier that has been prohibited from writing coverage for small employers in this state pursuant to R.I. Gen. Laws § 27-50-6(c) may not resume offering health benefit plans to small employers in this state until the carrier has filed a petition with the health insurance commissioner seeking to be reinstated as a small employer carrier and the petition has been approved by the commissioner. In reviewing a petition to reinstate, the commissioner may ask for such information and assurances as the commissioner deems reasonable and appropriate.
- (b) Carrier doing business in only one established geographic service area. In the case of a small employer carrier doing business in only one established geographic service area of the state, if the small employer carrier elects to discontinue offering a health benefit plan under R.I. Gen. Laws § 27-50-6(a)(5), the small employer carrier shall be prohibited from offering health benefit plans to small employers in any part of the service area for a period of five years beginning on the date the carrier ceased offering new coverage in that established geographic service area of the state. In addition, the small employer carrier shall not offer health benefit plans to small employers in any other geographical area of the state without the prior approval of the health insurance commissioner. In considering whether to grant

approval to offer health benefit plans, the commissioner may ask for such information and assurances as the commissioner deems reasonable and appropriate.

***Section 8      Certification and Disclosure of Prior Creditable Coverage***

(a) Creditable coverage.

(1) In general.

- (A) Small employer carriers shall provide written certification of creditable coverage, as that term is defined in R.I. Gen. Laws § 27-50-3(i), to individuals in accordance with this section.
- (B) A small employer carrier shall be deemed to have satisfied the certification requirements of this section if another person provides the certificate, but only to the extent that information relating to the individual's creditable coverage and waiting or affiliation period has been provided by the other person.
- (C) To the extent coverage under a health benefit plan consists of group health benefit plan coverage, the plan shall be deemed to have satisfied the certification requirements of this section if the small employer carrier offering the coverage is required to provide the certificates of creditable coverage to individuals pursuant to an agreement between the plan and the carrier.
- (D) A small employer carrier is not required to provide information regarding health benefit plan coverage provided to an individual by another person.
- (E) If an individual's coverage under a policy ceases before the individual's coverage under the group health plan ceases, the entity that issued the policy shall provide sufficient information to the small employer carrier, or to another person designated by the carrier, to enable the carrier, or other person, to provide a certificate that reflects the period of coverage under the policy, after the individual's coverage under the group health plan ceases.
  - (i) The provision of the information pursuant to paragraph (a)(1)(E) of this section to the carrier shall satisfy the entity's obligation to provide an automatic certificate pursuant to paragraphs (a) and (b) of this section.
  - (ii) The entity providing the information pursuant to paragraph (a)(1)(E) of this section shall cooperate with the carrier in responding to any request made under paragraph (f)(2) of this section.
  - (iii) If the individual's coverage under the group health plan ceases at the time the individual's coverage under the policy ceases, the entity that issued the policy shall provide an automatic certificate pursuant to paragraphs 8(a)(2) or (3) of this section.
  - (iv) An entity that issued the policy may presume that an individual whose coverage ceases at a time other than the effective date for changing enrollment options has ceased to be covered under the group health plan.

(2) Certification of creditable coverage.

- (A) A small employer carrier shall provide a certification of creditable coverage, without charge, to eligible employees or dependents who are or were covered under the group health plan as follows:
    - (i) for an individual who is a qualified beneficiary entitled to elect COBRA continuation coverage, automatically at the time the individual would lose coverage under the plan in the absence of COBRA continuation coverage or alternative coverage elected instead of COBRA continuation coverage; or
    - (ii) for an individual who is not a qualified beneficiary entitled to elect COBRA continuation coverage, automatically at the time the individual ceases to be covered under the group health plan.
  - (B) A small employer carrier satisfies the requirements of paragraph (a)(2)(A)(i) of this section if the carrier provides the certificate no later than the time a notice is required to be furnished for a qualifying event as specified in federal regulations.
  - (C) A small employer carrier satisfies paragraph (a)(2)(a)(ii) of this section if the carrier provides the certification within a reasonable time after coverage under the group health plan ceases.
  - (D) For an individual who is entitled to elect to continue coverage under a state program similar to COBRA and who receives the certificate pursuant to paragraph (a) (2)(a)(ii) of this section not later than the time a notice is required to be furnished under the state program, the certification shall be deemed to be provided within a reasonable time period after the cessation of coverage under the plan.
- (3) COBRA continuation coverage.
- (A) For an individual who is a qualified beneficiary and has elected COBRA continuation coverage, or whose coverage has continued after the individual became entitled to elect COBRA continuation coverage, a small employer carrier shall provide a certificate automatically at the time the individual's COBRA continuation coverage under the plan ceases.
  - (B) A small employer carrier satisfies paragraph (a)(3)(a) of this section if the carrier provides the certificate within a reasonable time after the coverage ceases or after the expiration of any grace period for nonpayment of premiums.
  - (C) A small employer carrier shall provide a certificate under paragraph (a)(3)(a) of this section to an individual regardless of whether the individual previously has received a certificate under paragraph(a)(2)(a)(i) of this section.
- (4) Request for a certificate.
- (A) Procedure.
    - (i) A small employer carrier shall provide a certificate at the time a request is made by or on behalf of an individual if the request is made within twenty-four months after the date the individual's coverage has ceased under the plan.

- (ii) Each small employer carrier shall establish a reasonable procedure for individuals to request and promptly receive certificates hereunder.
  - (B) Upon receipt of the request, the small employer carrier shall provide the certificate by the earliest date that the carrier, acting in a reasonable and prompt fashion, can provide the certificate.
  - (C) A small employer carrier shall provide a certificate as required under this Regulation even if the individual previously received such a certificate.
- (b) Requirements.
- (1) Certificate must be in writing; exceptions.
    - (A) Except as provided in paragraph (b)(1)(B) of this section, a certificate provided under paragraph (a) of this section shall be in writing.
    - (B) A written certificate is not required to be provided pursuant to paragraphs (a)(2), (3), or (4) of this section if:
      - (i) an individual is entitled to receive a certificate;
      - (ii) the individual requests that the certificate be sent to another health benefit plan instead of the individual;
      - (iii) the health benefit plan that would otherwise receive the written certificate agrees to accept the information described in Section(8)(b)(2) through means other than a written certificate; and
      - (iv) the receiving health benefit plan receives the information from the sending health benefit plan in such form within the time periods required under paragraphs (a)(2), (3), or (4) of this section.
  - (2) A certificate provided pursuant to this paragraph (b) of this section shall include the following:
    - (A) the date the certificate was issued;
    - (B) the name of the group health plan that provided the coverage described in the certificate;
    - (C) the name of the participant and/or dependent with respect to whom the certificate applies, and any other information necessary for the plan providing the coverage specified in the certificate to identify the individual, such as the individual's identification number under the plan and the name of the participant if the certificate is for, or includes, a dependent;
    - (D) the name, address, and telephone number of the plan administrator required to provide the certificate;
    - (E) the telephone number to call for further information regarding the certificate if different from the phone number of the plan administrator;
    - (F) either:

- (i) a statement that the individual has at least eighteen months of creditable coverage, disregarding days of creditable coverage before a significant break in coverage; or
    - (ii) the date any waiting period or affiliation period, if applicable, began and the date creditable coverage began; and
  - (G) the date creditable coverage ended, unless the certificate indicates that creditable coverage is continuing as of the date of the certificate.
- (3) If an automatic certificate is provided pursuant to paragraph (a)(2) or (3) of this section, the period included on the certificate shall be the last period of continuous coverage ending on the date the coverage ceased.
- (4) For a certificate requested pursuant to paragraph (a)(4) of this section, the certificate must be provided for each period of continuous coverage ending within the twenty-four month period ending on the date of the request or continuing on the date of the request. A separate certificate may be provided for each period of continuous coverage.
- (5) A certificate may provide the information required pursuant to paragraph (b)(2) of this section with respect to both a participant and the participant's dependents if the information is identical for each individual. If the information required pursuant to paragraph (b)(2) of this section is not identical, certificates may be provided on one form if the form provides all the required information for each individual and separately states the information that is not identical.
- (6) Appendix B contains a model certificate that a small employer carrier may use to satisfy the requirements of paragraph (b)(2) of this section.
- (7) A small employer carrier is not required to provide a certificate with respect to excepted benefits, as described in R.I. Gen. Laws § 27-50-3(v)(2), (3), (4) and (5), except if the excepted benefits are being provided concurrently with other creditable coverage. Under such circumstances, a small employer carrier may be required to disclose information concerning the benefits under paragraph (f) of this section.
- (c) Providing the certificate of coverage.
- (1) Small employer carriers may provide a certificate required to be provided pursuant to this section by first-class mail.
- (2) The address where the certificate is sent.
- (A) If a small employer carrier provides the certificate or certificates to the participant and the participant's spouse at the participant's last known address, the carrier has satisfied the requirements of this Section with respect to all individuals residing at that address.
  - (B) If the last known address of a dependent of the participant is different from the participant's last known address, a small employer carrier shall provide a separate certificate to the dependent at the dependent's last known address.



- (C) If a small employer carrier is providing separate certificates by mail to individuals who reside at the same address, the carrier is not required to mail each certificate separately.
- (3) Designating another individual or person to receive the certificate.
  - (A) If a small employer carrier is required to provide a certificate automatically to an individual pursuant to paragraphs (a)(2) or (3) of this section, and the individual entitled to receive the certificate designates another individual or person to receive the certificate, the carrier may provide the certificate to the designated party.
  - (B) If a small employer carrier is required to provide a certificate upon request pursuant to paragraph (a)(4) of this section and the individual entitled to receive the certificate designates another individual or person to receive the certificate, the carrier shall provide the certificate to the designated party.
- (d) Reasonable efforts.
  - (1) A small employer carrier shall use reasonable efforts to determine the information needed for a certificate relating to dependent coverage.
  - (2) For certificates required to be provided automatically pursuant to paragraphs (a)(2) or (3) of this section, an individual certificate is not required to be provided until the small employer carrier knows or, using reasonable efforts, should know of the dependent's cessation of coverage under the plan.
  - (3) If a certificate provided by a small employer carrier does not provide the name of a dependent of an individual covered by the certificate, the individual may, if necessary, use the procedures described in paragraph(g)(5) of this regulation for demonstrating dependent status. In addition, an individual may, if necessary, use the procedures described in paragraph (g)(5) of this section to demonstrate that a child was enrolled within thirty days of birth, adoption or placement for adoption.
- (e) Certificate provided for coverage not subject to the Act. Small employer carriers shall provide certificates of creditable coverage to individuals under this section even if the coverage is provided in connection with an entity or program that is not itself required to provide a certificate because the entity or program is not subject to the Act. This requirement applies to coverage provided in connection with: creditable coverage described in R.I. Gen. Laws § 27-50-3(j)(1)(b) through (j) and coverage subject to Section 2721(b)(1)(B) of the PHSA.
- (f) Alternative method of counting creditable coverage—information required. If an individual enrolls in a group health plan with respect to which the small employer carrier uses the alternative method of counting creditable coverage described in R.I. Gen. Laws § 27-50-7(d)(3) and the individual provides a certificate received pursuant to this section, at the request of the small employer carrier through which the individual has enrolled, the entity that provided the certificate to the individual shall promptly disclose to the carrier the information sufficient to identify to the small employer carrier the categories of benefits with respect to which the carrier is using the alternative method of counting creditable

coverage. The small employer carrier requesting the information may identify specific information that the carrier reasonably needs in order to determine the individual's creditable coverage with respect to a category. The entity providing the information may charge the small employer carrier requesting the information for the reasonable cost of providing the information.

- (g) Establishing creditable coverage through other means.
  - (1) An individual may establish creditable coverage through means other than a certificate if:
    - (A) the accuracy of the certificate is contested; or
    - (B) a certificate is unavailable at the time the certificate is needed by the individual.
  - (2) Paragraph (g)(1) of this section applies, but is not limited to, the following circumstances:
    - (A) an entity has failed to provide a certificate within the required time period;
    - (B) the individual has creditable coverage, but an entity may not be required to provide a certificate under this section;
    - (C) the individual has an urgent medical condition that requires a determination as to creditable coverage prior to the time the individual can provide a certificate to the health benefit plan; or
    - (D) the individual lost a certificate that the individual had previously received and is unable to obtain another certificate.
  - (3) A small employer carrier shall take into account all of the information that it obtains or that is presented on behalf of an individual to make a determination, based on the relevant facts and circumstances, whether an individual has creditable coverage and is entitled to offset all or a portion of any preexisting condition exclusion period.
  - (4) A small employer carrier shall treat the individual as having provided a certificate pursuant to this section if the individual:
    - (A) attests to the period of creditable coverage;
    - (B) presents relevant corroborating evidence of some creditable coverage during the period; and
    - (C) cooperates with the carrier's efforts to verify the individual's coverage.
  - (5) A small employer carrier may refuse to credit coverage where an individual fails to cooperate with the carrier's efforts to verify the individual's coverage. The carrier shall not consider the individual's inability to obtain a certificate as evidence of the absence of creditable coverage.
  - (6) For the purpose of paragraphs (g)(4)(C) and (g)(5) of this section, "cooperate" includes providing, upon request of the small employer carrier, a written authorization for the carrier to request a certificate on behalf of the individual and cooperating in

efforts to determine the validity of the corroborating evidence and the dates of creditable coverage.

- (7) Documents that may establish creditable coverage and waiting or affiliation periods in the absence of a certificate include:
    - (A) explanation of benefit (EOB) or other correspondence from a carrier indicating health benefit plan coverage;
    - (B) pay stubs showing a payroll deduction for health benefit plan coverage;
    - (C) a health insurance identification card;
    - (D) a certificate of coverage under a group health plan;
    - (E) records from health care providers, indicating health benefit plan coverage;
    - (F) third party statements verifying periods of health benefit plan coverage; and
    - (G) any other relevant documents that evidence periods of health benefit plan coverage.
  - (8) In addition to documentation set out in paragraph (g)(7) of this section, creditable coverage and waiting or affiliation period information may be established through other means, such as by a telephone call from the carrier or provider to a third party verifying creditable coverage.
  - (9) If, in the course of providing evidence of creditable coverage, including a certificate of creditable coverage pursuant to this section, an individual is required to demonstrate dependent status, the small employer carrier shall treat the individual as having furnished a certificate showing the dependent status if the individual:
    - (A) attests in writing to the dependency and period of dependency; and
    - (B) the individual cooperates with the carrier's efforts to verify dependent status.
  - (10) The procedures used by a small employer carrier pursuant to this section to determine creditable coverage shall apply to determine an individual's creditable coverage with respect to any category under paragraph (f) of this section relating to determining creditable coverage under the alternative method.
- (h) Determination of creditable coverage; preexisting condition exclusion.
- (1) Within a reasonable time period following the date of receiving information under this section with respect to creditable coverage of an individual, the small employer carrier shall make a determination regarding the individual's period of creditable coverage and notify the individual of the determination in accordance with the requirements of section (h)(3) of this section.
  - (2) Whether a determination and notification regarding an individual's creditable coverage is made within a reasonable time period shall be determined based on the relevant facts and circumstances, including whether the carrier's application of a preexisting condition exclusion would prevent the individual from having access to urgent medical care services.

- (3) A small employer carrier seeking to impose a preexisting condition exclusion shall disclose, in writing, to the individual its determination of any preexisting condition exclusion period that applies to the individual and the basis for the determination, including the source and substance of any information on which the carrier relied in making the determination. A small employer carrier shall include in the disclosure an explanation of any appeal procedures established by the carrier and provide the individual with a reasonable opportunity to submit additional evidence of creditable coverage.
- (4) Nothing in this paragraphs (g) or (h) of this section shall prevent a small employer carrier from modifying an initial determination of creditable coverage for an individual if the carrier determines that the individual did not have the creditable coverage, as claimed, if:
  - (A) the carrier provides a notice of reconsideration to the individual; and
  - (B) until the final determination regarding creditable coverage, the carrier, for the purpose of approving access to medical care, acts in a manner consistent with the initial determination.

#### ***Section 9      Restrictive Riders***

A restrictive rider, endorsement or other provision that would violate the provisions of R.I. Gen. Laws § 27-50-7(d)(10)(iii) is prohibited. Furthermore, except as permitted in R.I. Gen. Laws § 27-50-7(d)(2), a small employer carrier shall not modify or restrict any health benefit plan with respect to any eligible employee or dependent of an eligible employee, through riders, endorsements or otherwise, for the purpose of restricting or excluding the coverage or benefits provided to such employee or dependent for specific diseases, medical conditions or services otherwise covered by the plan.

#### ***Section 10      Rules Related to Fair Marketing***

- (a) Marketing of health plans. A small employer carrier shall actively market each of its health benefit plans to small employers in this state.
- (b) Offering health plans. A small employer carrier shall actively offer all health benefit plans it actively markets in this state to any small employer that applies for or makes an inquiry regarding health insurance coverage from the small employer carrier. The offer may be provided directly to the small employer or delivered through a producer. The offer shall be in writing and shall include at least the following information:
  - (1) a general description of the benefits contained in any health benefit plans being offered to the small employer; and
  - (2) information describing how the small employer may enroll in the plans.
- (c) Price quote. A small employer carrier shall provide a price quote to a small employer directly or through an authorized producer within ten working days of receiving a request for a quote and such information as is necessary to provide the quote. A small employer carrier shall notify a small employer directly or through an authorized producer within five

working days of receiving a request for a price quote of any additional information needed by the small employer carrier to provide the quote.

- (d) Requirement to issue. Subject to R.I. Gen. Laws § 27-50-7(b)(2), a small employer carrier shall issue any health benefit plan to any eligible small employer that applies for the plan.
- (e) Use of group size or any health status to determine eligibility prohibited. A small employer carrier may not directly or indirectly use group size or any health status-related factor as criteria for establishing eligibility for a health benefit plan.
- (f) Toll-free number.
  - (1) A small employer carrier shall establish and maintain a toll-free telephone service to provide information to small employers regarding the availability of small employer health benefit plans in this state.
  - (2) The toll-free number shall be included in the local telephone directory and identified as a small employer health insurance contact number.
  - (3) The service shall provide information to callers on how to apply for coverage from the carrier. The information may include the names and phone numbers of producers located geographically proximate to the caller or such other information that is reasonably designed to assist the caller to locate an authorized producer or to otherwise apply for coverage.
- (g) Membership or contribution to association or group. The small employer carrier shall not require a small employer to join or contribute to any association or group as a condition of being accepted for coverage by the small employer carrier, except that, if membership in an association or other group is a requirement for accepting a small employer into a particular health benefit plan, a small employer carrier may apply such requirement.
- (h) Requirement or condition to purchase other insurance. A small employer carrier may not require, as a condition of the offer or sale of a health benefit plan to a small employer, that the small employer purchase or qualify for any other insurance product or service.
- (i) Initial determination of compliance with Act. Carriers offering individual and group health benefit plans in this state shall be responsible for initially determining whether the plans are subject to the requirements of the Act and this regulation. The final determination of compliance rests with the health insurance commissioner.
- (j) Required information from applicants. Carriers shall elicit the following information from applicants for such plans at the time of application:
  - (1) Whether or not any portion of the premium will be paid by or on behalf of a small employer, either directly or through wage adjustments or other means of reimbursement; and
  - (2) Whether or not the prospective policyholder, certificate holder or any prospective insured individual intends to treat the health benefit plan as part of a plan or program under Section 162 (other than Section 162(l)), Section 125 or Section 106 of the United States Internal Revenue Code.

- (k) Failure to collect information. If a small employer carrier fails to comply with paragraph (j) of this section, the small employer carrier shall be deemed to be on notice of any information that could reasonably have been obtained if the small employer carrier had complied with paragraph (j) of this section..

***Section 11      Status of Carriers as Small Employer Carriers***

- (a) Filing required. Each carrier providing health benefit plans in this state shall make a filing with the health insurance commissioner indicating whether the carrier intends to operate as a small employer carrier in this state under the terms of this regulation. There is no application form nor requirement for approval. A letter stating the carrier's intention to operate in Rhode Island as a small employer carrier is sufficient. If a carrier has already made such a filing with either the commissioner or the predecessor to the OHIC, the Department of Business Regulation, the carrier need not make a new filing.
- (b) Prohibition on providing coverage. Subject to paragraph (c) of this section, a carrier shall not offer health benefit plans to small employers, or continue to provide coverage under health benefit plans previously issued to small employers in this state, unless the filing provided pursuant to paragraph (a) of this section indicates that the carrier intends to operate as a small employer carrier in this state.
- (c) Exceptions. If the filing made pursuant paragraph (a) of this section indicates that a carrier does not intend to operate as a small employer carrier in this state, the carrier may continue to provide coverage under health benefit plans previously issued to small employers in this state only if the carrier complies with the following provisions:
  - (1) the carrier complies with the requirements of the Act with respect to each of the health benefit plans previously issued to a small employer by the carrier;
  - (2) the carrier provides coverage to each new entrant to a health benefit plan previously issued to a small employer by the carrier; and
  - (3) the carrier complies with the requirements of R.I. Gen. Laws § 27-50-15 and Sections 9 and 12 of this regulation as they apply to small employers whose coverage has been terminated by the carrier and to individuals and small employers whose coverage has been limited or restricted by the carrier.

For the purpose of paragraph (c)(2) of this section, the provisions of the Act and this regulation shall apply to the coverage issued to new entrants.

- (d) Five year prohibition exclusion from market. If the filing made pursuant to paragraph (a) of this section indicates that a carrier does not intend to operate as a small employer carrier in this state, the carrier shall be precluded from operating as a small employer carrier in this state, except as provided for in paragraph (c) of this section, for a period of five years from the date of the filing. Upon a written request from a carrier, the commissioner may reduce said period provided for in the previous sentence if the commissioner finds that permitting the carrier to operate as a small employer carrier would be in the best interests of the small employers and their employees in the state.

***Section 12     Annual Filing***

- (a) Annual filing required. A small employer carrier shall make an annual filing with the health insurance commissioner. The filing must comply with the requirements of this section.
- (b) Rates proposed to be charged or the rating formula proposed to be used.
  - (1) The annual filing must contain information supporting the rates proposed to be charged or a rating formula proposed to be used by the carrier in the small employer market.
  - (2) The rates proposed to be charged or the rating formula proposed to be used shall be based on a minimum projected loss ratio of eighty percent.
  - (3) Hearing.
    - (A) Within twenty days of the filing, the commissioner shall make a determination as to whether a hearing will be held. If the commissioner determines that there should be a hearing, the hearing will be held within sixty days after receipt of the filing, upon not less than ten days prior written notice. The hearing notice shall contain a description of the rates proposed to be charged or the rating formula proposed to be used, and a copy of the notice shall be sent to the carrier and to the department of attorney general.
    - (B) At the hearing, the carrier shall be required to establish that the rates proposed to be charged or the rating formula proposed to be used are consistent with the proper conduct of its business and with the interest of the public.
    - (C) Conduct of the hearing. The hearing shall be conducted in accordance with OHIC Regulation 6. The commissioner, or the commissioner's designee, upon that hearing may administer oaths, examine and cross examine witnesses, receive oral and documentary evidence, and shall have the power to subpoena witnesses, compel their attendance and require the production of all books, papers, records, correspondence, or other documents which he or she deems relevant. Any designee who shall conduct a hearing pursuant to this section shall report his or her findings in writing to the commissioner within eighty days of the filing with a recommendation for approval, disapproval, or modification of the rates proposed to be charged or the rating formula proposed to be used by the applicant. The recommended decision shall become part of the record. The commissioner shall make and issue a decision not later than ten days following the issuance of the recommended decision or, if the commissioner conducts the hearing without the appointment of a designee, as soon as is reasonably possible following the completion of the hearing. The decision may approve, disapprove, or modify the rates proposed to be charged or the rating formula proposed to be used by the carrier and may take into consideration any of this information required to be filed under this section.

- (D) Carriers shall underwrite the reasonable expenses incurred by the Office in connection with the hearing, including but not limited to any costs related to advertisements, stenographic reporting, expert witnesses fees, actuarial fees and the per diem cost of the designee as appointed by the commissioner.
  - (E) The commissioner's designee shall mean a person who is impartial, a member in good standing of the Rhode Island bar and a person who is sufficiently acquainted with the rules of evidence as used in the superior court of the state so as to enable that person to conduct a hearing as designee of the commissioner.
  - (F) A carrier that is aggrieved by the commissioner's decision after a hearing may move for reconsideration by the commissioner within twenty days of the date of the decision. The commissioner shall issue a decision on the motion for reconsideration within ten days of receiving the motion. Such motions may be granted by the commissioner for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time for presentation at the hearing; (3) fraud, misrepresentation, or other misconduct of an adverse party; or (4) any other reason justifying relief from the decision. A party is not required to file a motion for reconsideration prior to appeal of the decision pursuant to R.I. Gen Laws § 42-35-15. However, if a carrier files a timely motion for reconsideration, carrier will not be considered to have fully exhausted all administrative remedies until a decision has been issued by the commissioner on the motion.
  - (G) A carrier that is aggrieved by the commissioner's decision after exhausting all available administrative remedies is entitled to appeal the commissioner's decision in accordance with R.I. Gen. Laws § 42-35-15.
- (4) No hearing is held.
- (A) If no hearing is held on the filing, the commissioner shall evaluate the filing to determine if the carrier has established that the rates proposed to be charged or the rating formula proposed to be used are consistent with the proper conduct of its business and with the interest of the public. The commissioner shall make and issue a decision as soon as is reasonably possible following the filing. The decision may approve, disapprove, or modify the rates proposed to be charged or the rating formula proposed to be used by the carrier and may take into consideration any of this information required to be filed under this section. Carriers shall underwrite the reasonable expenses incurred by the Office in connection with the evaluation of the filing, including but not limited to any expert and/or actuarial fees.
  - (B) A carrier that is aggrieved by the commissioner's decision on a filing without a hearing may request an administrative hearing pursuant to paragraph (b)(3) of this section. A carrier will not be considered to have fully exhausted all



available administrative remedies until a decision has been issued by the commissioner after a full administrative hearing on the filing.

- (c) In addition to the information required by paragraph (b) of this section, the annual filing must contain the following information related to health benefit plans issued by the carrier to small employers in this state:
- (1) the number of small employers that were issued health benefit plans in the previous calendar year (separated as to newly issued plans and renewals and separated as to those that were accepted after medical underwriting and those to which no medical underwriting was applied);
  - (2) the number of small employers that were issued the HealthPact plan in the previous calendar year (separated as to newly issued plans and renewals);
  - (3) the number of small employer health benefit plans in force in each county (or by zip code) of the state as of December 31 of the previous calendar year;
  - (4) the number of small employer health benefit plans that were voluntarily not renewed by small employers in the previous calendar year;
  - (5) the number of small employer health benefit plans that were terminated or nonrenewed for reasons other than nonpayment of premium by the carrier in the previous calendar year;
  - (6) the number of small employer health benefit plans that were issued to small employers that were uninsured for at least the three months prior to issue;
  - (7) an actuarial certification as described in paragraph (d) of this section;
  - (8) information describing the efforts undertaken by the carrier to enhance the affordability of its products and implement policies and developments that improve the quality and efficiency of health care service delivery and outcomes in the state, as required by the commissioner; and
  - (9) such other information as the commissioner may require.
- (d) Actuarial certification.
- (1) The actuarial certification shall be made by an appointed actuary and shall certify that the carrier is in compliance with the Act and that the rating methods of the carrier are actuarially sound. The certification shall be in a form and manner, shall contain the information specified in section of the regulation and shall be signed by a qualified actuary. A copy of the certification shall be retained by the carrier at its principal place of business.
  - (2) Standard for actuarial certification and associated analysis.
    - (A) The certification shall be in the form of a written report, signed by the appointed actuary, and include such additional exhibits as may be required to support the conclusions and opinions stated in the certification. It should be prepared in accordance with Actuarial Standard of Practice No. 26 of the American Academy of Actuaries, "Compliance with Statutory and Regulatory

Requirements for the Actuarial Certification of Small Employer Health Benefit Plans,” and shall contain a statement to that effect.

- (B) The certification shall include, but not be limited to, the following areas of compliance:
    - (i) compliance with restrictions related to premium rates in R.I. Gen. Laws § 27-50-5;
    - (ii) compliance with provisions related to renewability of coverage in R.I. Gen. Laws § 27-50-6;
    - (iii) compliance with provisions related to availability of coverage in R.I. Gen. Laws § 27-50-7; and
    - (iv) compliance with provisions related to certification of creditable coverage in R.I. Gen. Laws § 27-50-8.
  - (C) The certification shall identify any instances of non-compliance in any of the above areas, and the number of instances of each type of non-compliance, the nature of the lack of compliance and the steps taken or recommended to correct non-compliance either retroactively or prospectively.
  - (D) The certification shall contain a statement describing the extent, if any, to which the appointed actuary relied upon the work of others in reaching his or her conclusions. If the appointed actuary has relied upon the work of others, a statement from the person or persons relied upon describing the accuracy and completeness of the work shall be attached.
  - (E) The appointed actuary shall maintain copies of all work papers necessary to support the conclusions reached in the certification for a minimum period of three years after the due date of the certification, and be prepared to explain the work done and/or produce the work papers to the commissioner or his or her designee upon request.
- (3) A qualified actuary is an individual who:
- (A) is a member in good standing of the American Academy of Actuaries;
  - (B) is familiar with the requirements applicable to carriers under the Act;
  - (C) is qualified to sign Prescribed Statements of Actuarial Opinion regarding compliance with small employer group health laws and regulations in accordance with the American Academy of Actuaries qualifications for actuaries signing such statements;
  - (D) has not been found by the commissioner or his or her designee (or if so found has subsequently been reinstated as a qualified actuary), following appropriate notice and hearing to have:
    - (i) violated any provision of, or any obligation imposed by, Rhode Island’s insurance laws or other law in the course of his or her dealings as a qualified actuary;

- (ii) been found guilty of fraudulent or dishonest practices;
  - (iii) demonstrated his or her incompetence, lack of cooperation, or untrustworthiness to act as a qualified actuary;
  - (iv) submitted to the commissioner during the past five years, pursuant to the Act, an actuarial opinion or memorandum that the commissioner rejected because it did not meet the provisions of this regulation including standards set by the Actuarial Standards Board; or
  - (v) resigned or been removed as an actuary within the past five years as a result of actions or omissions indicated in any adverse report on examination or as a result of failure to adhere to generally acceptable actuarial standards; and
- (E) has not failed to notify the commissioner of any action taken by any insurance commissioner of any other state similar to those described above.
- (4) An “appointed actuary” is a qualified actuary who is appointed or retained to prepare the Statement of Actuarial Opinion required by R.I. Gen. Laws § 27-50-5(h), either directly by or by the authority of the board of directors through an executive officer of the carrier. The carrier shall give the commissioner not less than thirty days written notice of the name, title (and, in the case of a consulting actuary, the name of the firm) and manner of appointment or retention of each person appointed or retained by the carrier as an appointed actuary and shall state in such notice that the person meets the requirements set forth in this section. Once notice is furnished, no further notice is required with respect to this person, provided that the carrier shall give the commissioner not less than thirty days written notice in the event the actuary ceases to be appointed or retained as an appointed actuary or to meet the requirements set forth in this section. If any person appointed or retained as an appointed actuary replaces a previously appointed actuary, the notice shall so state and give the reasons for replacement and that the replacement actuary meets the requirements hereof.
- (e) Filing deadline. The filing described in this section shall be filed no later than March 15 of each year.
- (f) Public availability of filing. Except for those documents for which a privilege is claimed or which contain proprietary information, any documents contained in the filing or presented in support of the filing under this section shall be made available for public examination at any time and place that the Commissioner may deem reasonable. The filing and the documents in support of the filing may also be posted on the Commissioner’s web site. Any claim by the carrier that documents in the filing are privileged or contain proprietary information must be made at the time of the filing. In the absence of such claims, the filing and the supporting documents may be made available to the public at the time of the filing.

***Section 13      Development of Standardized Collection Tools***

- (a) Health status data collection tools. Standardized health status data collection tools for the purposes of obtaining information to apply the health status factor adjustment described in

paragraph (b) of Section 5 of this regulation shall be developed by the health insurance commissioner in conjunction with the carriers no later than June 1, 2008.

- (b) Eligible enrollee certification tools. Standardized certification tools for the purposes of complying with paragraph (c)(1) of Section 6 of this regulation shall be developed by the health insurance commissioner in conjunction with the carriers no later than June 1, 2008.

***Section 14      Wellness Health Benefit Plan—The HealthPact Plan***

- (a) Requirement to offer. Carriers that actively market health benefit plans to small employers in Rhode Island shall offer to those employers a wellness health benefit plan that meets the requirements of this section and complies with all other requirements of the Act and this regulation. Nothing in the Act or this regulation prohibits the sale of health benefit plans that differ from the wellness health benefit plans provided for in this section.
- (b) Effective date. Unless a carrier has received a waiver from the health insurance commissioner, all carriers that actively market health benefit plans to small employers in Rhode Island shall offer a wellness health benefit plan to small employers no later than October 1, 2007.
- (c) HealthPact. The wellness health benefit plan shall be referred to as the “HealthPact” plan.
- (d) Requirements of the HealthPact plan.

- (1) In general.

- (A) The HealthPact plan shall have two levels of benefits: Advantage and Basic.
- (B) Requirements for Advantage-level benefits are dependent on the member’s age.
  - (i) Members (including dependents) who are eighteen years of age or over at the time of enrollment or renewal are classified as “adult members” and are subject to the requirements for adult members.
  - (ii) Members who are between the ages of twelve and seventeen years of age at the time of enrollment or renewal are considered “adolescent members” and are subject to the requirements for adolescent members.
  - (iii) Members who are under the age of twelve at the time of enrollment or renewal are considered “child members” and are subject to the requirements for child members.
- (C) The premium rates for the Advantage-level and Basic-level plans shall be the same, with Advantage-level members paying less for medical care, including but not limited to:
  - (i) lower copays for physician visits;
  - (ii) lower coinsurance for specific procedures;
  - (iii) lower annual deductibles; and
  - (iv) lower out-of-pocket maximums.
- (D) Members who do not complete the requirements for Advantage-level benefits will receive Basic-level benefits. All members of a family must complete the

Advantage-level requirements specified in paragraph (d)(2) of this section in order for the family to be eligible to receive Advantage-level benefits.

(2) Different yearly requirements.

- (A) Requirements for Advantage-level benefits increase on a yearly basis over a period of three years.
- (B) Year-one Advantage-level benefits are tied to the following requirements:
  - (i) for adult members, completion of the requirements set out in paragraph (d)(3)(A) of this section no later than twenty-one days prior to enrollment;
  - (ii) for adolescent members, completion of the requirements set out in paragraph (d)(3)(C) of this section no later than twenty-one days prior to enrollment; and
  - (iii) for child members, completion of the requirements set out in paragraph (d)(3)(E) of this section no later than twenty-one days prior to enrollment.
- (C) Year-two Advantage-level benefits are tied to the following requirements:
  - (i) for adult members, compliance with the requirements set out in paragraph (d)(3)(B) of this section no later than two hundred and forty days (eight months) from the date of enrollment;
  - (ii) for adolescent members, compliance with the requirements set out in paragraph (d)(3)(D) of this section no later than two hundred and forty days (eight months) from the date of enrollment; and
  - (iii) for child members, compliance with the requirements set out in paragraph (d)(3)(F) of this section no later than two hundred and forty days (eight months) from the date of enrollment.
- (D) Year-three Advantage-level benefits will be tied to achievement of goals related to:
  - (i) smoking cessation, if applicable;
  - (ii) weight loss or weight management, if applicable;
  - (iii) participation in a disease management program (or programs), if applicable; and
  - (iv) participation in a case management program (or programs), if applicable.

Guidelines for year three Advantage-level requirements will be established by the commissioner no later than November 1, 2007.

(3) Advantage-level requirements.

- (A) Each adult member must comply with specified wellness requirements for year-one Advantage-level benefits. These requirements include:
  - (i) selection of a primary care physician (PCP);
  - (ii) completion and submission of a Personal Health Assessment (PHA); and

- (iii) completion and submission of a HealthPact pledge.
- (B) Each adult member must comply with specified wellness requirements for year-two Advantage-level benefits. These requirements include:
  - (i) completion and submission of a PCP Checklist;
  - (ii) completion and submission of a Participation Commitment Form (PCF), which specifies participation in a smoking cessation program, if necessary, and participation in a weight loss or weight management program, if necessary;
  - (iii) participation in a disease management program (or programs), when identified for such a program (or programs) by the carrier; and
  - (iv) participation in a case management program (or programs), when identified for such a program (or programs) by the carrier.
- (C) Each adolescent member must comply with specified wellness requirements for year-one Advantage-level benefits. These requirements include:
  - (i) selection of a PCP;
  - (ii) completion and submission of a PHA; and
  - (iii) completion and submission of a HealthPact pledge.
- (D) Each adolescent member must comply with specified wellness requirements for year-two Advantage-level benefits. These requirements include:
  - (i) completion and submission of a PCP Checklist;
  - (ii) participation in smoking cessation program, if necessary, and participation in a weight loss or weight management program, if necessary (no submission of PCF);
  - (iii) participation in a disease management program (or programs), when identified for such a program (or programs) by the carrier; and
  - (iv) participation in a case management program (or programs), when identified for such a program (or programs) by the carrier.
- (E) Each child member must comply with specified wellness requirements for year-one Advantage-level benefits. These requirements include:
  - (i) selection of a PCP; and
  - (ii) completion and submission of a PHA.
- (F) Each child member must comply with specified wellness requirements for year-two Advantage-level benefits. These requirements include:
  - (i) participation in a disease management program (or programs), when identified for such a program (or programs) by the carrier; and
  - (ii) participation in a case management program (or programs), when identified for such a program (or programs) by the insurer.

- (e) Eligibility. Determination of Advantage-level versus Basic-level eligibility will be made by the carrier. Members will only move from one level of benefits to another (e.g., Advantage to Basic) on the enrollment anniversary date.
- (f) Forms and Documents.
  - (1) The enrollment package shall include the following forms and documents related to year-one Advantage-level eligibility:
    - (A) a year-one Advantage-level eligibility instruction sheet and checklist that substantially conforms to the model set out in Appendix C of this regulation;
    - (B) a HealthPact pledge form that substantially conforms to the model set out in Appendix D of this regulation.
    - (C) a form for selecting a PCP; and
    - (D) a PHA form.
  - (2) Carriers may develop and use their own PHA forms. The commissioner may, in consultation with the carriers, develop a standard PHA form for use with HealthPact plans.
  - (3) The forms and documents related to year-one Advantage-level eligibility shall be grouped together or otherwise conspicuously arranged so that members can readily identify all documents and forms necessary for eligibility for year-one Advantage-level benefits.
  - (4) The enrollment package shall include the following forms and documents related to year-two Advantage-level eligibility:
    - (A) a year-two Advantage-level eligibility instruction sheet and checklist that substantially conforms to the model set out in Appendix E of this regulation;
    - (B) PCP checklists that substantially conform to the models set out in Appendices F and G of this regulation;
    - (C) a sample Body Mass Index (BMI) chart that includes a statement that the sample BMI chart is for informational purposes only and that members should rely on their PCP rather than the sample BMI chart to determine their own BMI;
    - (D) statement that defines “smoke” or “smoking” as use of a tobacco product within the six month period prior to the completion of the PCP checklist; and
    - (E) an PCF that substantially conforms to the model set out in Appendix H of this regulation.
  - (5) The forms and documents related to year-one Advantage-level eligibility shall be grouped together or otherwise conspicuously arranged so that members can readily identify all documents and forms necessary for eligibility for year-one Advantage-level benefits.
  - (6) Written copies of the forms and documents required by paragraph (f) of this section shall be made available to members upon request at no charge and shall also be

available on the carrier's website. Members shall also be informed that a photocopy of these form and documents may be filled out and submitted to the carrier.

(g) Rates.

- (1) The commissioner shall set an average annualized individual premium rate for the HealthPact plan to be less than ten percent of the average annual statewide wage, as reported by the Rhode Island department of labor and training, in their report entitled "Quarterly Census of Rhode Island Employment and Wages." In the event that this report is no longer available, or the commissioner determines that it is no longer appropriate for the determination of maximum annualized premium, an alternative method shall be adopted by the commissioner by regulation. The maximum annualized individual premium rate shall be determined no later than August 1st of each year, to be applied to the subsequent calendar year premium rates.
- (2) Carriers must offer a HealthPact plan at a base community rate that is at or below the rate established pursuant to paragraph (g)(1) of this section and consistent with the requirement of Section of this regulation. Each carrier must receive approval of its annual HealthPact plan base community rate from the commissioner. Carriers may make adjustments to their HealthPact plan base community rate in accordance with the Act and Section 5 of this regulation.
- (3) Carriers may increase their HealthPact plan base community rate throughout the year, but only as authorized by the commissioner.

(h) Benefits to be offered.

- (1) The benefits to be provided in any HealthPact plan, by either new or renewal coverage commencing before October 1, 2008, shall be consistent with the guidance provided by the advisory committee established pursuant to R.I. Gen. Laws. § 27-50-10. This guidance is contained in the HealthPact plan requirements document, available from OHIC.
  - (2) The benefits to be provided in any HealthPact plan, by either new or renewal coverage commencing on or after October 1, 2008, shall be consistent with the guidance provided by the commissioner in an annual HealthPact plan requirements document. The procedures for establishing the annual plan requirements document guidance, including timeframes for the approval process, shall be specified by the commissioner in an OHIC bulletin, to be issued no later than May 1 of each year.
- (i) Appeals. Carriers shall develop and consistently apply an appeal mechanism for a member dissatisfied with his or her Basic-level benefits determination. Carriers may satisfy this requirement through the use of existing appeal processes and procedures.
- (j) Marketing.
- (1) A small employer carrier shall actively market a HealthPact plan in accordance with R.I. Gen. Laws Section 27-50-7(b). Prior to offering a HealthPact plan, a carrier shall provide the commissioner with a copy of the carrier's initial marketing plan for its HealthPact plan.



- (2) A small employer carrier may not suspend the marketing or issuance of the HealthPact plan unless the carrier has good cause and has received the prior approval of the Commissioner.
- (3) Any producer authorized by a small employer carrier to market health benefit plans to small employers in this state shall also be authorized to market the HealthPact plan.
- (4) Carriers are free to use any name for the marketing of the HealthPact plan; however, a tagline identifying the wellness health benefit plan as a "HealthPact" plan shall be used by the carriers in all marketing materials related to the HealthPact plan. The insurers shall be free to name the HealthPact plan in accordance with its standard product naming process and conventions. Either the tagline or the logo shall appear on the health plan identification cards for the HealthPact plan in accordance with the style guide developed by the commissioner. The style guide is available from the OHIC and is posted on the OHIC website.
- (k) Dual option. The HealthPact plan must be offered on a dual option and sole replacement basis to all small group employers. "Offered" means at a minimum that every rate sheet from the insurer to a broker or a small group must include the HealthPact plan as an option. This requirement will be reevaluated in time for applications and renewals commencing no later than October 1, 2009. This dual option requirement will be reevaluated in terms of its impact on each carrier's HealthPact plan membership, loss ratio, and other relevant metrics.
- (l) Enrollment cap. Carriers may set an enrollment cap of no fewer than 5,000 HealthPact plan members. Once the cap is reached in a particular year, carriers may cease to offer the HealthPact plan for the remainder of the year. The cap may be reevaluated annually by the commissioner, with the first evaluation performed in time for applications and renewals commencing no later than October 1, 2009.
- (m) Time limits for participation requirements. The following timeline shall apply to all new and renewal applications for HealthPact plans:
  - (1) Distribution of enrollment or renewal packages. Enrollment or renewal packages containing the information, documents and forms required by this regulation for HealthPact plans shall be provided to employers, either directly by the carrier or through a broker, no later than forty-five days prior to the employer's expected enrollment or renewal date.
  - (2) Completion and submission of year-one Advantage level eligibility requirements.
    - (A) In order to meet the requirements set out in section (d)(2)(B) of this regulation, members must forward to the carrier, either by mail (first class postage) or delivery (by hand or by a third-party) the pledges, PCP selection forms and PHAs, as required by sections (d)(3)(A) (for adults), (d)(3)(C) (for adolescents), or (d)(3)(E) (for children), no later than twenty-one days prior to the enrollment date.
    - (B) Members will meet the deadline required by section (d)(2)(B) of this regulation if the forms, if mailed, are postmarked on or before the twenty-first day prior to

the enrollment date, or if delivered, are received by the carrier before the close of business on or before the twenty-first day prior to enrollment date.

- (C) If the twenty-first day prior to enrollment date falls on a weekend or state or federal holiday, the deadline shall be extended by the carrier to the next business day.
- (3) Reminder card or letter. No later than one hundred and fifty days (five months) after enrollment, carriers shall send a reminder card or letter to members alerting members of the year-two Advantage-level requirements and deadlines.
- (4) Completion and submission of year-two Advantage level eligibility requirements. In order to be eligible for year-two Advantage-level benefits, members must:
  - (A) Complete the PCP checklist no later than two hundred and ten days (seven months) after the enrollment date.
  - (B) Participate in case management and/or disease management programs no later than two hundred and forty days (eight months) after the enrollment date, if:
    - (i) selected by the carrier for case management and/or disease management programs; and
    - (ii) notified by the carrier of the case management and/or disease management programs no later than one hundred and eighty days (six months) after the enrollment date.
    - (iii) Members who are notified by the carrier of selection for case management and/or disease management programs after the deadline set out in paragraph (h)(4)(B)(ii) of this section, must nevertheless participate in the case management and/or disease management programs, however, this participation shall not affect the member's year-two Advantage-level eligibility, but shall affect the member's year-three (and subsequent) Advantage-level eligibility.
  - (C) Meet the requirements set out in section (d)(2)(B) of this regulation.
    - (1) In order to meet the requirements set out in section (d)(2)(C) of this regulation, members must forward to the carrier, either by mail (first class postage) or delivery (by hand or by a third-party) the PCP checklists and PCFs, as required by sections (d)(3)(B) (for adults), (d)(3)(D) (for adolescents), or (d)(3)(F) (for children), to the carrier no later than two hundred and forty days (eight months) after the enrollment date.
    - (2) Members will meet the requirements set out in section (d)(2)(C) of this regulation if the forms, if mailed, are postmarked on or before the two hundred and fortieth day after the enrollment date, or if delivered, are received by the carrier before the close of business on or before the two hundred and fortieth day after the enrollment date.

- (3) If the two hundred and fortieth day after the enrollment date falls on a weekend or state or federal holiday, the deadline shall be extended by the carrier to the next business day.

An example of the Advantage-level benefits timeline for adults with an October 1, 2007 enrollment date is as follows:

Number of days to/from enrollment	Action	Date
-45	Enrollment packages received by employer	8/17/2007
-21	Last day for employees to submit: (1) PCP selection form (2) Signed pledge (3) PHA form	9/10/2007
0	Enrollment date	10/1/2007
+150	Reminder card/letter sent by carrier for year-two Advantage-level requirements	2/28/2008
+180	Last day for carriers to notify subscribers of case management and/or disease management participation requirement in time to affect year-two Advantage eligibility.	3/31/2008
+180	Last day for PCP office visit to fill out PCP Checklist	4/28/2008
+240	Last day for members to participate in CM and DM, if necessary, to affect year-2 Advantage eligibility.	5/28/2008
+240	Last submission of the following to carriers: (1) PCP checklist and (2) FCF.	5/28/2008

- (n) Non-renewal date enrollment. Employers may switch from an existing product to the HealthPact plan with the same carrier earlier than the employers scheduled renewal date, thereby changing their effective renewal date, at no penalty to the employer. Employers interested in purchasing the HealthPact plan but who are unable to complete the enrollment

requirements within the required twenty-one days prior to their scheduled renewal date may extend their existing plan for at least thirty days (one month) in order to allow sufficient time to complete the new enrollment requirements, at no penalty to the employer.

- (m) Network Requirements. The carriers shall develop a tiered network. Each carrier's tiered network structure must be implemented for all new and renewal HealthPact plan members no later than October 1, 2008. OHIC rating decisions for rates applicable to October 1, 2008 and later will assume compliance with this requirement. Draft tiered network proposals to be implemented on October 1, 2008 must be submitted to OHIC on or before September 1, 2007. A final tiered network proposal must be submitted to OHIC on or before January 1, 2008. OHIC decisions regarding carrier proposals will be determined on or before February 1, 2008. OHIC decisions regarding future revisions/phased implementation of network proposals (after October 1, 2008) will be made in response to the final carrier proposals.
- (o) Bulletins. The commissioner may issue bulletins for clarification or additional guidance on the HealthPact plan. Carriers may also request guidance from the commissioner in the form of a bulletin.
- (p) Late enrollees. Year-one enrollees (including added dependents) who are added to an employer's HealthPact plan after the year-one enrollment date must meet the following requirements to be eligible for year-one and year-two Advantage-level benefits:
  - (1) adult members must meet the requirements set out in paragraphs (d)(3)(A) of this section at the time of enrollment;
  - (2) adolescent members must meet the requirements set out in paragraphs (d)(3)(C) of this section at the time of enrollment; and
  - (3) child members must meet the requirements set out in paragraphs (d)(3)(E) of this section at the time of enrollment.
- (q) Switching carriers. If an employer switches carriers after enrolling in the HealthPact plan after, the new carrier may require the employer's enrollees to meet the Advantage-level benefits requirements that would have been required of those enrollees had the employer remained enrolled in the HealthPact plan through the previous carrier.

***Section 15***                      ***Severability***

If any provision of this regulation or the application thereof to any person or circumstances are for any reason held to be invalid, the remainder of the regulation and the application of its provisions to other persons or circumstances shall not be affected thereby.

***Section 16***                      ***Effective Date***

This regulation shall be effective upon filing with the Secretary of State.

EFFECTIVE DATE: \_\_\_\_\_, 2007

## **APPENDIX A**

### **MODEL DESCRIPTION OF SPECIAL ENROLLMENT RIGHTS**

If you are declining enrollment for yourself or for your dependents (including your spouse) because of other health insurance coverage, you may in the future be able to enroll yourself or your dependents in this plan, provided that you request enrollment within thirty (30) days after your other coverage ends. In addition, if you have a new dependent as a result of marriage, birth, adoption or placement for adoption, you may be able to enroll yourself and your dependents, provided that you request enrollment within thirty (30) days after the marriage, birth, adoption or placement for adoption.

## APPENDIX B

### CERTIFICATE OF GROUP HEALTH PLAN COVERAGE

**\*IMPORTANT** – This certificate provides evidence of your prior health coverage. You may need to furnish this certificate if you become eligible under a group health plan that excludes coverage for certain medical conditions that you have before you enroll. This certificate may need to be provided if medical advice, diagnosis, care, or treatment was recommended or received for the condition within the 6-month period prior to your enrollment in the new plan. If you become covered under another group health plan, check with the plan administrator to see if you need to provide this certificate. You may also need this certificate to buy, for yourself or your family, an insurance policy that does not exclude coverage for medical conditions that are present before you enroll.

1. Date of this certificate: \_\_\_\_\_
2. Name of group health plan: \_\_\_\_\_
3. Name of participant: \_\_\_\_\_
4. Identification number of participant: \_\_\_\_\_
5. Name of any dependents to which this certificate applies: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
6. Name, address, and telephone number of plan administrator or issuer responsible for providing this certificate: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
7. For further information, call: \_\_\_\_\_  
\_\_\_\_\_
8. If the individuals identified in line 3 and line 5 have at least 18 months of creditable coverage (disregarding periods of coverage before a 90-day break), check here ☐ (and skip lines 9 and 10).
9. Date waiting period or affiliation period (if any) began: \_\_\_\_\_
10. Date coverage began: \_\_\_\_\_
11. Date coverage ended: \_\_\_\_\_ (or check here ☐ if coverage is continuing as of the date of this certificate).

**NOTE:** Separate certificates will be furnished if information is not identical for the participant and each beneficiary.

## APPENDIX C

### INSTRUCTIONS FOR YEAR-ONE ADVANTAGE-LEVEL BENEFITS

#### **HealthPact Plan [use standard brand format and logo]**

**\*IMPORTANT** – In order to receive year-one Advantage-Level benefits (beginning at enrollment) in [insert product name, a HealthPact Plan], each adult (age 18 and over at the time of enrollment) must complete the following:

**1. HealthPact Pledge Form**

Every adult must complete and submit the attached HealthPact Pledge Form twenty-one days prior to the enrollment date. The enrollment date is the date your coverage begins.

**2. Primary Care Physician (PCP) Selection Form**

Every adult must complete and submit the attached PCP Selection Form twenty-one days prior to the enrollment date.

**3. Personal Health Assessment (PHA) Form**

Every adult must complete and submit the attached PHA Form twenty-one days prior to the enrollment date.

In order to receive year-one Advantage-Level benefits (beginning at enrollment) in [insert product name, a HealthPact Plan], each adolescent (who is at least 12 but not older than 17 at the time of enrollment) must complete the following:

**1. HealthPact Pledge Form**

Every adolescent must complete and submit the attached HealthPact Pledge Form twenty-one days prior to the enrollment date. The enrollment date is the date your adolescent's coverage begins.

**2. Primary Care Physician (PCP) Selection Form**

The attached PCP Selection Form must be completed and submitted for every adolescent twenty-one days prior to the enrollment date.

**3. Personal Health Assessment (PHA) Form**

The attached PHA Form must be completed and submitted for every adolescent twenty-one days prior to the enrollment date.

In order to receive year-one Advantage-Level benefits (beginning at enrollment) in [insert product name, a HealthPact Plan], each child (who is under 12 at the time of enrollment) must complete the following:

**1. Primary Care Physician (PCP) Selection Form**

The attached PCP Selection Form must be completed and submitted for every adolescent twenty-one days prior to the enrollment date. The enrollment date is the date your child's coverage begins.

**2. Personal Health Assessment (PHA) Form**

The attached PHA Form must be completed and submitted for every child twenty-one days prior to the enrollment date.

**No HealthPact Pledge Form is required for children under 12.**

**Please use the attached checklist to ensure that all requirements have been met. Mail the checklist and all required forms to:**

[insert carrier name and address]

**no later than twenty-one days prior to enrollment.** If we do not receive of these forms from each family member as required, the entire family shall receive Basic level benefits.

**Additional forms are available at our website, at [insert web address]**

**Your 21 day deadlines are as follows:**

<b>If your enrollment date is:</b>		<b>21 days before enrollment is:</b>
Monday, October 1, 2007	→	Monday, September 10, 2007
Thursday, November 1, 2007	→	Thursday, October 11, 2007
Saturday, December 1, 2007	→	Monday, November 12, 2007*
Tuesday, January 1, 2008	→	Tuesday, December 11, 2007
Friday, February 1, 2008	→	Friday, January 11, 2008
Saturday, March 1, 2008	→	Monday, February 11, 2008*
Tuesday, April 1, 2008	→	Tuesday, March 11, 2008
Thursday, May 1, 2008	→	Thursday, April 10, 2008
Sunday, June 1, 2008	→	<b>Monday, May 12, 2008*</b>
Tuesday, July 1, 2008	→	Tuesday, June 10, 2008
Friday, August 1, 2008	→	Friday, July 11, 2008
Monday, September 1, 2008	→	Monday, August 11, 2008
Wednesday, October 1, 2008	→	Wednesday, September 10, 2008

\*The 21<sup>st</sup> day prior to the December, March and June dates falls on a weekend day and has therefore been advanced to the next Monday.



**HealthPact Plan [use standard brand format and logo]**  
**Year-One Advantage Benefits Checklist**

List of Adults (18 and over as of the date of enrollment):

1. \_\_\_\_\_

Name

- ☐ HealthPact Pledge Form completed and enclosed
- ☐ PCP Selection Form completed and enclosed
- ☐ PHA Form completed and enclosed

2. \_\_\_\_\_

Name

- ☐ HealthPact Pledge Form completed and enclosed
- ☐ PCP Selection Form completed and enclosed
- ☐ PHA Form completed and enclosed

3. \_\_\_\_\_

Name

- ☐ HealthPact Pledge Form completed and enclosed
- ☐ PCP Selection Form completed and enclosed
- ☐ PHA Form completed and enclosed

4. \_\_\_\_\_

Name

- ☐ HealthPact Pledge Form completed and enclosed
- ☐ PCP Selection Form completed and enclosed
- ☐ PHA Form completed and enclosed

5. \_\_\_\_\_

Name

- ☐ HealthPact Pledge Form completed and enclosed
- ☐ PCP Selection Form completed and enclosed
- ☐ PHA Form completed and enclosed

List of Adolescents (12 to 17 as of the date of enrollment):

1. \_\_\_\_\_

Name

- ☐ HealthPact Pledge Form completed and enclosed
- ☐ PCP Selection Form completed and enclosed
- ☐ PHA Form completed and enclosed

2. \_\_\_\_\_

Name

- ☐ HealthPact Pledge Form completed and enclosed
- ☐ PCP Selection Form completed and enclosed
- ☐ PHA Form completed and enclosed

3. \_\_\_\_\_

Name

- ☐ HealthPact Pledge Form completed and enclosed
- ☐ PCP Selection Form completed and enclosed
- ☐ PHA Form completed and enclosed

4. \_\_\_\_\_

Name

- ☐ HealthPact Pledge Form completed and enclosed
- ☐ PCP Selection Form completed and enclosed
- ☐ PHA Form completed and enclosed

5. \_\_\_\_\_

Name

- ☐ HealthPact Pledge Form completed and enclosed
- ☐ PCP Selection Form completed and enclosed
- ☐ PHA Form completed and enclosed

List of Children (under 12 as of the date of enrollment):

1. \_\_\_\_\_

Name

☐ PCP Selection Form completed and enclosed

☐ PHA Form completed and enclosed

2. \_\_\_\_\_

Name

☐ PCP Selection Form completed and enclosed

☐ PHA Form completed and enclosed

3. \_\_\_\_\_

Name

☐ PCP Selection Form completed and enclosed

☐ PHA Form completed and enclosed

4. \_\_\_\_\_

Name

☐ PCP Selection Form completed and enclosed

☐ PHA Form completed and enclosed

5. \_\_\_\_\_

Name

☐ PCP Selection Form completed and enclosed

☐ PHA Form completed and enclosed

## APPENDIX D

### MODEL ADVANTAGE-LEVEL BENEFITS PLEDGE

#### HealthPact Plan [use standard brand format and logo] Advantage Benefits Pledge

This plan focuses on primary care, prevention, and wellness. This plan also emphasizes the importance of proper treatment for the chronically ill. To support these goals, and to obtain the Advantage level of benefits, individuals and family members must pledge to commit to the goals of the HealthPact plan, as follows:

I, \_\_\_\_\_ (print member name), agree to:

- Participate in a smoking cessation program, if currently a smoker, or remain smoke-free if a non-smoker.
- Participate in a weight loss or weight management program, if I have a high Body Mass Index (BMI), or maintain a healthy weight if my BMI is in the healthy range.
- Participate in disease management or case management, if identified by [name of carrier] as an individual who would benefit from these programs.

Today is \_\_\_\_\_, 200\_\_, and I understand my participation in the Advantage program is dependent on my engagement in the above mentioned programs.

Signed \_\_\_\_\_

(By the member if 18 or older as of the date of enrollment or the member's parent or guardian if the member is 12 to 17 years old)

No pledge is required of members under 12 years old.

## APPENDIX E

### INSTRUCTIONS FOR YEAR-TWO ADVANTAGE-LEVEL BENEFITS

#### **HealthPact Plan [use standard brand format and logo]**

**\*IMPORTANT** – In order to retain Advantage Level benefits in Year-Two for [insert product name, a HealthPact Plan], each adult (age 18 and over at the time of enrollment) must complete the following:

**1. Primary Care Physician Checklist (PCP Checklist)**

Every adult must have the attached PCP checklist filled out by his/her primary care physician within 180 days (six months) of enrollment. This form is intended to identify smoking cessation and weight management goals for each member.

**2. HealthPact Participation Commitment Form**

Within 240 days (eight months) of enrollment, every adult must fill out the attached HealthPact Participation Commitment Form. This form is intended to conform each member's actions taken to comply with the wellness programs identified by his/her primary care physician in the PCP Checklist (related to smoking cessation and/or weight management).

In order to retain the Advantage Level benefits in Year-Two for [insert product name, a HealthPact Plan], each child who is at least 12 but not older than 17 at the time of enrollment must complete the following:

**Primary Care Physician Checklist (PCP Checklist)**

Every child must have the attached PCP checklist filled out by his/her primary care physician within 180 days (six months) of enrollment. This form is intended to identify smoking cessation and weight management goals for each member.

No HealthPact Participation Commitment Form is required for children aged 12 to 17.

**No PCP Checklist or HealthPact Participation Commitment Form is required for children under 12.**

**Please use the attached checklist to ensure that all requirements have been met. Mail the checklist and all required forms to:**

[insert carrier name and address]

**no later than 240 days (eight months) after enrollment.** If we do not receive of these forms from each family member as required within eight months of enrollment, the entire family shall receive Basic level benefits.

**Additional forms are available at our website, at [insert web address]**

**Your 180 day deadlines are as follows:**

<b>If your enrollment date is:</b>		<b>180 days after enrollment is:</b>
Monday, October 1, 2007	→	Monday, March 30, 2008*
Thursday, November 1, 2007	→	Tuesday, April 29, 2008
Saturday, December 1, 2007	→	Thursday, May 29, 2008
Tuesday, January 1, 2008	→	Monday, June 30, 2008*
Friday, February 1, 2008	→	Wednesday, July 30, 2008
Saturday, March 1, 2008	→	Thursday, August 28, 2008
Tuesday, April 1, 2008	→	Monday, September 29, 2008*
Thursday, May 1, 2008	→	Tuesday, October 28, 2008
Sunday, June 1, 2008	→	Friday, November 28, 2008
Tuesday, July 1, 2008	→	Monday, December 29, 2008*
Friday, August 1, 2008	→	Wednesday, January 28, 2009
Monday, September 1, 2008	→	Monday, March 2, 2009*
Wednesday, October 1, 2008	→	Monday, March 30, 2009

\*The 180<sup>th</sup> day after the October, January, April, July, and September enrollment dates falls on a weekend day and has therefore been advanced to the next Monday.

**Your 240 day deadlines are as follows:**

<b>If your enrollment date is:</b>		<b>180 days after enrollment is:</b>
Monday, October 1, 2007	→	Wednesday, May 28, 2008
Thursday, November 1, 2007	→	Monday, June 30, 2008*
Saturday, December 1, 2007	→	Monday, July 28, 2008
Tuesday, January 1, 2008	→	Thursday, August 28, 2008
Friday, February 1, 2008	→	Monday, September 29, 2008*
Saturday, March 1, 2008	→	Monday, October 27, 2008
Tuesday, April 1, 2008	→	Thursday, November 27, 2008
Thursday, May 1, 2008	→	Monday, December 29, 2008*
Sunday, June 1, 2008	→	Tuesday, January 27, 2009
Tuesday, July 1, 2008	→	Thursday, February 26, 2009
Friday, August 1, 2008	→	Monday, March 30, 2009*
Monday, September 1, 2008	→	Wednesday, April 29, 2009
Wednesday, October 1, 2008	→	Friday, May 29, 2009

\*The 240<sup>th</sup> day after the November, February, May, and August enrollment dates falls on a weekend day and has therefore been advanced to the next Monday.

### HealthPact Plan [use standard brand format and logo] Advantage Benefits Checklist

List of Adults (18 and over as of the date of enrollment):

1. \_\_\_\_\_  
Name  
☐ PCP Checklist completed and enclosed  
☐ HealthPact Participation Commitment Form completed and enclosed
2. \_\_\_\_\_  
Name  
☐ PCP Checklist completed and enclosed  
☐ HealthPact Participation Commitment Form completed and enclosed
3. \_\_\_\_\_  
Name  
☐ PCP Checklist completed and enclosed  
☐ HealthPact Participation Commitment Form completed and enclosed
4. \_\_\_\_\_  
Name  
☐ PCP Checklist completed and enclosed  
☐ HealthPact Participation Commitment Form completed and enclosed
5. \_\_\_\_\_  
Name  
☐ PCP Checklist completed and enclosed  
☐ HealthPact Participation Commitment Form completed and enclosed

List of Adolescents (12 to 17 as of the date of enrollment):

1. \_\_\_\_\_  
Name  
☐ PCP Checklist Completed and enclosed
2. \_\_\_\_\_  
Name  
☐ PCP Checklist Completed and enclosed
3. \_\_\_\_\_  
Name  
☐ PCP Checklist Completed and enclosed
4. \_\_\_\_\_  
Name  
☐ PCP Checklist Completed and enclosed
5. \_\_\_\_\_  
Name  
☐ PCP Checklist Completed and enclosed

## APPENDIX F

### PRIMARY CARE PHYSICIAN CHECKLIST FOR ADULTS (OVER 18 AT THE TIME OF ENROLLMENT)

#### HealthPact Plan [use standard brand format and logo] Primary Care Physician Checklist for Adults

**\*IMPORTANT** – In order to receive Advantage Level benefits in [insert product name, a HealthPact Plan], this form must be completed by your primary care physician (PCP) for each adult (age 18 and over at the time of enrollment) HealthPact member and mailed by the member to:

[insert carrier name and address]

**no later than eight months (240 days) after enrollment.** If we do not receive of these forms for all adult family member within 240 days of enrollment, the entire family shall receive Basic level benefits.

1. Member Name: \_\_\_\_\_
2. Address \_\_\_\_\_
3. Member Identification Number: \_\_\_\_\_
4. Date of Birth: \_\_\_\_\_
5. Date of examination: \_\_\_\_\_

#### Body Mass Index

6. Body Mass Index (BMI) calculation
  - a. Weight: \_\_\_\_\_
  - b. Height: \_\_\_\_\_
  - c. BMI: \_\_\_\_\_
7. The member's BMI is above his/her recommended BMI level: Yes ☐ No ☐
8. If the member's BMI is above the recommended level, has the physician discussed a weight loss program or goal with the member? Yes ☐ No ☐ (leave blank if member's BMI is not above recommended level).
9. Briefly describe the program or goal: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
10. Additional comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

#### Smoking

11. Is the member a smoker (has he or she smoked within the last 6 months): Yes ☐ No ☐
12. If the member is a smoker, has the physician discussed a smoking cessation program or goal with the member? Yes ☐ No ☐ (leave blank if member is not a smoker).
13. Briefly describe the program or goal: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
14. Additional comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Physician Signature (Required)**

The information supplied above is complete and accurate to the best of my knowledge.

Physician Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Physician Name (printed): \_\_\_\_\_

**Member Signature (Required)**

I have reviewed and discussed the information supplied above with my physician and I agree to comply with his/her recommendations. I understand that submission of this PCP Checklist is required in order to continue in the Advantage level of benefits under my HealthPact plan. I further understand that I am required to submit a Participation Commitment Form documenting my compliance with my physicians' recommendations.

Member Signature: \_\_\_\_\_ Date: \_\_\_\_\_



## APPENDIX G

### PRIMARY CARE PHYSICIAN CHECKLIST FOR ADOLESCENTS (12-17 AT THE TIME OF ENROLLMENT)

#### HealthPact Plan [use standard brand format and logo] Primary Care Physician Checklist for Children

**\*IMPORTANT** – In order to retain Advantage Level Year-Two benefits in [insert product name, a HealthPact Plan], this form must be completed by your adolescent's primary care physician (PCP) for each adolescent (ages 12 to 17 at the time of enrollment) HealthPact member and mailed by the member to:

[insert carrier name and address]

**no later than 240 days (eight months) after enrollment.** If we do not receive of these forms for all 12 to 17 year old family member within 240 days of enrollment, the entire family shall receive Basic level benefits.

1. Member Name: \_\_\_\_\_
2. Address \_\_\_\_\_
3. Member Identification Number: \_\_\_\_\_
4. Date of Birth: \_\_\_\_\_
5. Date of examination: \_\_\_\_\_

#### **Body Mass Index**

6. Body Mass Index (BMI) calculation
  - a. Weight: \_\_\_\_\_
  - b. Height: \_\_\_\_\_
  - c. BMI: \_\_\_\_\_
7. The member's BMI is above his/her recommended BMI level: Yes ☐ No ☐
8. If the member's BMI is above the recommended level, has the physician discussed a weight loss program or goal with the member and the member's parent or guardian? Yes ☐ No ☐ (leave blank if member's BMI is not above recommended level).
9. Briefly describe the program or goal: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
10. Additional comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

#### **Smoking**

11. Is the member a smoker (has he or she smoked within the last 6 months): Yes ☐ No ☐
12. If the member is a smoker, has the physician discussed a smoking cessation program or goal with the member and the member's parent or guardian? Yes ☐ No ☐ (leave blank if member is not a smoker).

13. Briefly describe the program or goal: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

14. Additional comments: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**Physician Signature (Required)**

The information supplied above is complete and accurate to the best of my knowledge.

Physician Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Physician Name (printed): \_\_\_\_\_

**Member Signature (Required) (To be signed by Parent or Guardian)**

I have reviewed and discussed the information supplied above with my adolescent's physician and I agree to comply with his/her recommendations. I understand that submission of this PCP Checklist is required in order to continue in the Advantage level of benefits under my HealthPact plan.

Member Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## APPENDIX I

### PARTICIPATION COMMITMENT FORM

#### HealthPact Plan [use standard brand format and logo] Participation Commitment Form

**\*IMPORTANT** – In order to receive Advantage Level benefits in [insert product name, a HealthPact Plan], this form must be completed and mailed to:

[insert carrier name and address]

**no later than 240 days (eight months) after enrollment.** If we do not receive of these forms for all adult family member within 240 days of enrollment, the entire family shall receive Basic level benefits.

1. Member Name: \_\_\_\_\_
2. Address \_\_\_\_\_
3. Member Identification Number: \_\_\_\_\_
4. Date of Birth: \_\_\_\_\_

To qualify for the Advantage Level Benefits you must confirm your participation in a wellness program(s). Please fill in the appropriate information.

#### 1. Smoker/Tobacco User

☐ Yes

I, \_\_\_\_\_ (member name), confirm that I am participating in a smoking/tobacco cessation program. Today is \_\_\_\_\_, 200\_\_\_\_, and I understand my participation in the Advantage program is dependent on my engagement in the above mentioned program(s).

Actions Taken:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signed \_\_\_\_\_ (member signature)

#### 2. Smoker/Tobacco User

☐ No

I, \_\_\_\_\_ (member name), confirm that I currently am not a smoker, yet I understand that if I start smoking/using tobacco I will participate in a smoking/tobacco cessation program. Today is \_\_\_\_\_, 200\_\_\_\_, and I understand my participation in the Advantage program is dependent on my compliance with this statement.

Signed \_\_\_\_\_ (member signature)

### 3. Weight Management

☐ Yes, my PCP recommended (on my PCP checklist) that I participate in a weight management program.

I, \_\_\_\_\_ (member name), confirm that I am participating in the applicable weight management program(s) as directed by my PCP. Today is \_\_\_\_\_, 200\_\_\_\_, and I understand my participation in the Advantage program is dependent on my engagement in the above mentioned program.

Actions Taken:

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Signed \_\_\_\_\_ (member signature)

### 4. Weight Management

☐ No, my PCP did not recommend that I participate in a weight management program.

I, \_\_\_\_\_ (member name), confirm that I maintain a healthy weight, according to my PCP. Today is \_\_\_\_\_, 200\_\_\_\_, and I understand my continued participation in the Advantage program is dependent on compliance with this statement.

Signed \_\_\_\_\_ (member signature)